

April 4, 2003

Mr. Jay Hyland, P.E., Manager
Radiation Control Program
Division of Health Engineering
10 State House Station
Augusta, ME 04333

Dear Mr. Hyland:

As requested in your February 25, 2003 letter, we have reviewed the proposed regulations that will become part of the State of Maine Rules Relating to Radiation Protection (Part C). The regulations were received by our office on March 6, 2003. The proposed regulations are in response to the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 30, 31 and 32. We also discussed our review of the regulations with Shawn Seeley, of your office, on March 25, 2003.

As a result of our review, we have one comment, and one editorial suggestion, as enclosed. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted, incorporating our comment and without significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure SA-201, *Review of State Regulations* (November 10, 1998), please highlight the final changes and send one copy to STP.

The SRS Data Sheet summarizes our knowledge of other Maine regulations. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the STP Web Site: <http://www.hsrdr.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Terry Brock of my staff at 301-415-2323 or TAB2@NRC.GOV.

Sincerely,

/RA By JMPiccone/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

April 4, 2003

Mr. Jay Hyland, P.E., Manager
Radiation Control Program
Division of Health Engineering
10 State House Station
Augusta, ME 04333

Dear Mr. Hyland:

As requested in your February 25, 2003 letter, we have reviewed the proposed regulations that will become part of the State of Maine Rules Relating to Radiation Protection (Part C). The regulations were received by our office on March 6, 2003. The proposed regulations are in response to the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 30, 31 and 32. We also discussed our review of the regulations with Shawn Seeley, of your office, on March 25 and April 2, 2003.

As a result of our review, we have one comment, and one editorial suggestion, as enclosed. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted, incorporating our comment and without significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure SA-201, *Review of State Regulations* (November 10, 1998), please highlight the final changes and send one copy to STP.

The SRS Data Sheet summarizes our knowledge of other Maine regulations. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the STP Web Site: <http://www.hsr.d.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Terry Brock of my staff at 301-415-2323 or TAB2@NRC.GOV.

Sincerely,
IRA By JMPiccone/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Distribution:
DIR RF (3-48)
Busilton
Maine File

DCD (SP05) PDR (YES_✓)
LRakovan, ASPO

Response to Incoming Document: ML003696531

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML030940674.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	STP	STP	OGC	STP:DD
NAME	TABrock	JGZabko	SATreby	JMPiccone
DATE	03/25/03*	03/25/03*	04/03/03*	04/04/03*

ML030940674

OFFICIAL RECORD COPY

COMMENTS ON PROPOSED MAINE REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
C.6.B	31.5 (c)(13)	2001-1	B	<p>Certain detecting, measuring gauging or controlling devices.</p> <p>The State has omitted parts of this section. Some examples of these omissions are the inventory requirements of 31.5(c)(13)(iii)(E) and the certification requirements of 31.5(c)(13)(iii)(F). Although some requirements are paraphrased and appear in their regulations, this section is a compatibility category "B". This category requires their rules to be essentially identical to 31.5 (c)(13).</p> <p>The State needs to incorporate each part of 31.5(c)(13) in a manner that includes all of the essential objectives.</p>

EDITORIAL SUGGESTIONS

1. The numbering scheme in section C.11.D.(1)-(7) appears to be incorrect.

STATE REGULATION STATUS

State: Maine

Tracking Ticket Number: 3-48

[1 amendment reviewed is identified by a ★ at the beginning of each equivalent NRC regulation.]

Date: April 4, 2003

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3	F ML012710492	N 12/11/01 ML013520336	8/1/01
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F ML012710492	Y 12/11/01 ML013520336	8/1/01
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F ML012710492	N 12/11/01 ML013520336	8/1/01
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243; 60 FR 322; (1/1/98)	1995-1	F ML012710492	N 12/11/01 ML013520336	8/1/01

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 11/24/99	8/26/99
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 11/24/99	8/26/99
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F ML012710492	N 12/11/01 ML013520336	(LBR) 8/1/01
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML012710492	N 12/11/01 ML013520336	8/1/01
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F	N 11/24/99	8/26/99
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 11/24/99	8/26/99
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML012710492	N 12/11/01 ML013520336	8/1/01
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable SECY-95-112 ⁴
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML012710492	N 12/11/01 ML013520336	8/1/01
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML003696531	Y 04/04/03 ML030940674	
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML023090488	N 12/27/02 ML023580098	
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	2002-2	P ML023090488	Y 12/27/02 ML023580098	

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address.
N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number